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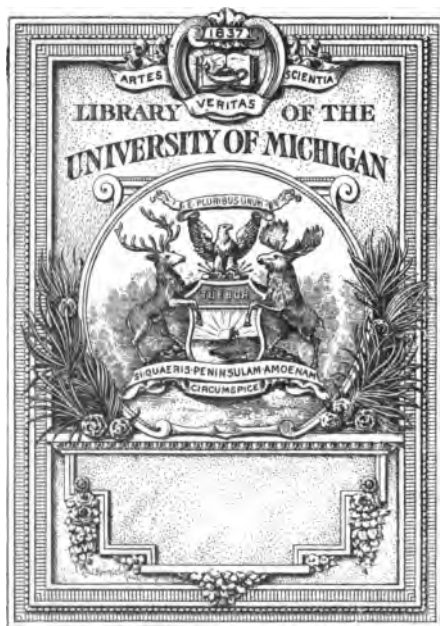
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From Prof. Kelsey

AMERICAN AUTHORS

AND

BRITISH PIRATES

BY

BRANDER MATTHEWS



NEW-YORK

THE AMERICAN COPYRIGHT LEAGUE

1889

In vain we call old notions fudge
And bend our conscience to our dealing
The Ten Commandments will not budge
And stealing will continue stealing.

J. H. Lovell.

AMERICAN AUTHORS

AND

BRITISH PIRATES

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BY

James BRANDER MATTHEWS



NEW-YORK

THE AMERICAN COPYRIGHT LEAGUE

1889

This paper is a revision and amplification of two articles published in the "New Princeton Review" for September, 1887, and for January, 1888.

B. M.

AMERICAN AUTHORS AND BRITISH PIRATES.

NOW and again, in this country, when we see on every news-stand in every street, and at every railroad station, half a dozen or half a score rival reprints of 'Called Back' or of 'King Solomon's Mines,' or of 'Dr. Jekyll and Mr. Hyde,' we have brought before us with burning distinctness the evidence of the great wrong which American pirates have done and are doing to British authors. But from the nature of things, here in these United States, we cannot see as clearly the great wrong which British pirates have done and are doing to American authors. As most American publishers now deal fairly with the foreigner, and treat him as though he were a native, despite the fact that they have no protection against the competition of any freebooter who may undersell them "because he steals his brooms ready-made," so there are also many honorable publishing-houses in Great Britain which scorn to take what is not their own, and which have direct dealings

with the author whenever they wish to issue an American book. Yet there are also in England now not a few publishers who are quite as bold as the American pirates; and, as we shall see, sometimes more unscrupulous and unblushing than these. In the past there have been fewer American books worth stealing, and the traditions of the publishing trade in England have not fostered a needless reliance on the foreign author; but, when all allowance is made, it is to be said that the British pirate is not at all inferior in enterprise to the American pirate, although he is more infrequent.

It is to this piracy by British publishers that I wish to direct attention, and I need say little now about the kindred plagiarism by British writers at the expense of American authors. I have no desire to dwell on strange cases like the bare-faced borrowing of part of one of Mrs. Wistar's adaptations from the German, by the Rev. S. Baring-Gould, for use in a translation purporting to be his own work, or on the inexplicable appropriation, by the Rev. Sir George W. Cox, Bart., of the 'Young Folks' Cyclopedia of Common Things,' devised and prepared originally in this country by Mr. John D. Champlin, Jr. Discreditable as were both of these affairs, there is no need now to linger over them or over others like them, be they more or less common; although I may set down an impression that this sort of plagiarism is more frequent in Great Britain than in the United States; partly, if for no other reason, because it

is easier there than here, as they know less about American books in England than we know about English books in America, and so there is less danger of detection and exposure. But plagiarism by British authors and piracy by British publishers are separate; and it is only the latter that I have space to consider in these pages. Yet it may be noted that neither of the plagiarisms mentioned — Mr. S. Baring-Gould's and Sir G. W. Cox's — would have been ventured if the American authors had been protected in England by copyright.

In Prof. Lounsbury's admirable life of James Fenimore Cooper, we are told how the American novelist labored loyally and manfully to get for Sir Walter Scott some payment from the American publishers who had reprinted the Waverley novels, how he failed, and how he himself suffered from British piracy. "After 1838," says Prof. Lounsbury, "the income received from England naturally fell off, in consequence of the change in the law of copyright. The act of Parliament passed in that year provided that no foreign author outside of British dominions should have copyright in those dominions unless the country to which he belonged gave copyright to the English author. . . . The value of anything produced by a citizen of the United States fell at once as a necessary consequence of the want of protection against piracy." The British law does not now stand as it did fifty years ago, but in that half century every American author

of prominence and popularity has suffered from its deficiencies.

In November, 1876, Longfellow wrote to a lady in England whose works had been republished in America without permission or compensation: "It may comfort you to know that I have had twenty-two publishers in England and Scotland, and only four of them ever took the slightest notice of my existence, even so far as to send me a copy of the books. Shall we call this 'chivalry'—or the other word?"

Twenty years before Longfellow penned these words, in August, 1856, Hawthorne recorded in his 'English Note-Books' that he paid a visit to Routledge's publishing-house in London, and "saw one of the firm; he expressed great pleasure at seeing me, as indeed he might, having published and sold, without any profit on my part, uncounted thousands of my books." It would be difficult now, more than thirty years after Hawthorne made this entry and more than ten years after Longfellow wrote this letter, to number all the British editions of the most popular works of Hawthorne and Longfellow; and nearly all of these editions are pirated. Longfellow's poems are included in almost every cheap "Library" issued in England; and one or another of Hawthorne's romances, the 'Scarlet Letter,' or 'Transformation,'—as the English publisher miscalls the 'Marble Faun,'—is always turning up in English catalogues, even in the most unexpected collections.

Of late years, and especially within the last three or four, there have been many reprints of Emerson's chief books. Before Mr. Lowell was appointed minister to England he was known there as the author of the 'Biglow Papers,' as a humorist only, and in the main as a rival to "Artemus Ward" and "Josh Billings"; now there are various editions of his serious poems and of his criticisms. In like manner the visit of Dr. Holmes to London in 1886 called forth a host of reprints of his prose and of his poetry. Not long before he had been represented chiefly by a book called 'Wit and Humor,' a selection from his lighter verse, and by half a dozen editions of the 'Autocrat of the Breakfast Table,' in one of which he was subjected to the indignity of an introduction by Mr. George Augustus Sala!

The annual lists of most of the British publishing-houses are to be found bound together in the 'Reference Catalogue of Current Literature,' issued by Mr. Joseph Whitaker. A copy of this 'Reference Catalogue' for 1885 lies before me as I write; and an examination of its pages has yielded much curious information. For an American the book abounds with "things not generally known"; and to an American author, or, indeed, to any American who believes that the American author is a laborer worthy of his hire, it offers what Mr. Horace Greeley called "mighty interesting reading."

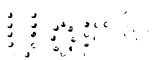
Let us glance through the catalogue of Messrs. Frederick Warne & Co., a house which devotes

itself chiefly to the dissemination of cheap books, and which has a habit of grouping a large proportion of its publications into series. One of them, "Warne's Star Series," contained, in 1885, ninety-one numbers, and of these I have been able to identify thirty-six as of American authorship; among them are 'The Wide, Wide World,' 'The Prince of the House of David,' 'That Lass o' Lowrie's,' 'Uncle Tom's Cabin,' 'Little Women,' 'Ben Hur,' and six of Mr. E. P. Roe's stories. The publishers, with fine irony, announce that "Warne's Star Series" is "a popular edition of well-known books, many copyright." Another series, called "Warne's Select Books," contained nineteen numbers, and of these all but two were by American authors, including Miss Cummins's 'Lamplighter' and three stories by Mr. E. P. Roe. In the most important of the collections of this house, the "Chandos Classics," a "series of standard works in poetry, history, and general literature," four American books were to be found — Longfellow's poems, and Hawthorne's 'Mosses from an Old Manse,' 'Twice-told Tales,' and 'Tanglewood Tales.'

Chief among the rivals of Messrs. Frederick Warne & Co., in the pleasant and profitable work of introducing American authors to the British public without so much as a by-your-leave, are Messrs. Ward, Lock & Tyler. They, too, have their several series. One of these is the "Home Treasure Library," as to which we are informed that "it is the intention of the publishers that a tone of pure morality and lofty aim shall charac-

terize the whole of the volumes in this library." Of the thirty-eight volumes in the "Home Treasure Library," thirty were written by American authors, including Professor Ingraham, Miss Alcott, Mrs. Whitney, and Miss Wetherell (from whom six books have been borrowed). Into the "Good Worth Library" the publishers kindly inform us that "no works have been admitted in which the three requisites for good worth in a book—namely, the promotion of knowledge, the furtherance of wisdom, and the charm of amusement—are not combined"; and an examination of the catalogue of the "Good Worth Library" reveals that the British publishers found the three requisites in at least seven American books, by Mr. Beecher, Mr. Channing, Mr. J. T. Headley, Mr. T. T. Munger, and Prof. William Mathews.

A third series is the "Good Tone Library," and "the publishers"—so they tell us—"have not bestowed this title on a series of books without good reason," since "the volumes included under this head are those really high-class works which are most calculated to elevate the mind and give a high tone to the character." It speaks ill for English literature when we find that there are only a score of these high-toned books, and that all of these, excepting only three, have been forced across the Atlantic as foreign missionaries. Miss Alcott's 'Little Women' is No. 15, and No. 16 is 'Good Wives,' a "sequel to above"—a typical example of the willingness of English publishers of a



certain type to alter the titles of American books without right or reason. Another example of this pernicious custom can be found in yet another collection issued by Messrs. Ward, Lock & Tyler, a series of "Favorite Authors," in which we discover not only Mr. John Habberton's 'Helen's Babies' and 'Other People's Children' (in one volume), but also accredited to the same author 'Grown-up Babies and Other People,' a book not to be found under that name in any American catalogue. There are twenty-seven volumes of "Favorite Authors," and of these seven by American authors have been impressed by a process as harsh as that which caused the War of 1812. In Messrs. Ward, Lock & Tyler's "Select Library of Fiction," now extending to nearly four hundred volumes, written mostly by the cheaper contemporary English novelists, there are more than thirty volumes captured unwillingly and unwittingly from writers who were born on this side of the Atlantic. In this "Select Library" are four volumes by "Max Adeler," two by Dr. Holmes, four by Mr. Bret Harte, one by Nathaniel Hawthorne, four by "Mark Twain," one by Mr. Henry James, two by Cooper, one by Dr. Holland, two by "Artemus Ward," one by Mrs. A. D. T. Whitney, two by Dr. W. S. Mayo, one by Edgar Allan Poe, and one by "Sophie May." Many translations from French and German novelists are also included in this "Select Library," and I think it possible that some are reprinted from translations made in America.

No doubt, this condensing and copious extract-

ing from catalogue after catalogue may be monotonous to many readers; but it is only by the cumulative effect of iteration that the rapacity of the British pirate can be shown; and I have no hesitation in continuing the dissection of Messrs. Ward, Lock & Tyler's lists. They publish also "The People's Standard Library," and declare that "the volumes included in this series have made for themselves a place and a name in English literature which will last as long as the language endures. No library can be considered complete without them." In 1885 there were less than one hundred volumes in "The People's Standard Library," and of these nearly twenty were of American authorship. Among them were the poems of Longfellow, Poe, Lowell, and Whittier. The proportion of American books in this library was smaller than in most of the other similar series issued by the same publishers. Perhaps this proportion is largest in the "Lily Series," which contained seventy-nine books, of which not more than nineteen can be ascribed to English writers—and of the nationality of some of these nineteen I am not at all sure. We should take it as a high compliment to the morality of American novelists that they supply three-quarters of the "Lily Series," since "the design of this series is to include no books except such as are peculiarly adapted, by their high tone, pure taste, and thorough principle, to be read by those persons, young and old, who look upon books as upon their friends, only worthy to be received

into the family circle for their good qualities and excellent characters. In view of this design, no author whose name is not a guarantee of the real worth and purity of his or her work, or whose book has not been subjected to a rigid examination, will be admitted into the 'Lily Series.' Miss Alcott and Miss Phelps, "Marion Harland" and "Fanny Fern," Mr. E. P. Roe and Dr. Holland, Mr. Aldrich and Mrs. Burnett, Professor Ingraham and the late T. S. Arthur, are among the American authors whose books have passed the rigid examination. And in like manner Mr. Beecher, Dr. William Mathews, Mr. George Cary Eggleston, and other Americans supply about half of the volumes of the "Friendly Counsel Series," the object of which is "to spread abroad for the reading public the good words of the present, and preserve for them (*sic*) the wisdom of the past."

Yet two more of Messrs. Ward, Lock & Tyler's collections call for comment, and I am done with them. These are "Beeton's Humorous Books" and "Ward, Lock & Co.'s Series of Popular Sixpenny Books." There are about eighty of "Beeton's Humorous Books," and between sixty and seventy of them are American. The English publishers have not only taken the liberty of reprinting these books, they have also allowed themselves the license of re-naming them at will. Mr. C. D. Warner's 'My Summer in a Garden' is called 'Pusley,' for example; and there are three volumes credited to "Mark Twain" under titles which he

never gave them — ‘Eye Openers,’ ‘Practical Jokes,’ and ‘Screamers.’ “Artemus Ward” and “Hans Breitmann,” Mr. Aldrich and Mr. Bret Harte, Mr. Lowell, Mr. Saxe, and Dr. Holmes, furnish many other of “Beeton’s Humorous Books,” and Mr. John Habberton provides, perhaps, more than any other author — eight. Mr. Habberton is also a frequent involuntary contributor to “Ward, Lock & Co.’s Series of Popular Sixpenny Books,” in which we find a full proportion of American works, including Professor Hardy’s ‘But Yet a Woman,’ Mrs. Anna Katherine Green’s ‘X. Y. Z.,’ Mr. Harris’s ‘Uncle Remus,’ and the anonymous ‘Democracy’ — a book any American may well regret to see popular in England at a sixpence or at a guinea.

Not unlike certain of these series published by Messrs. Ward, Lock & Tyler are several of the series issued by Messrs. J. & R. Maxwell. Their “Illustrated Merry Folks’ Library,” “in penny books, each book complete in itself, and containing thirty-two pages of matter full of fun and frolic, wit and wisdom, and of comic cuts,” seems to extend to fifty-two numbers, of which apparently almost every one is attributed to an American author, although the titles of some of these works will, no doubt, surprise those who are only privileged to read American literature in America. I do not think I exaggerate when I say that the most devoted admirers of these authors are unacquainted with ‘Tid Bits,’ by Mr. Bret Harte; with ‘Rich Sells and Horrid Hoaxes,’ by

Mr. John Habberton; with 'Fie, Fie, you Flirt,' by Mr. J. G. Saxe, and with 'Yankee Ticklers,' by Dr. Holmes. Messrs. J. & R. Maxwell are also the publishers of another collection, which is closely akin to this in subject and authorship, and to which they have humorously given the singularly inappropriate name of "The Britannia Series."

It is understood that Mr. J. Maxwell, the senior partner of this firm, is now the husband of the lady known in the history of English prose fiction as Miss M. E. Braddon, a lady who has been loud and frequent in her protests against the misdeeds of the American pirates in reprinting her books exactly as she wrote them, and by the titles she gave them. It is difficult to imagine just what Miss Braddon would have said had her 'Lady Audley's Secret' been included in some so-called "Columbian Library" as 'The Mystery of a Naughty Girl.' There is here an inconsistency in Mr. Maxwell's attitude. But it is best not to criticise these inconsistencies too severely, or what should we be forced to say to those newspapers in New York, for instance, that advocate international copyright in their editorial columns, while unhesitatingly helping themselves to short stories from the latest English magazines for use in their usual Saturday or Sunday supplements?

In one of the always acute and admirable off-hand speeches, of which he made many while in England, Mr. Lowell referred to the community of blood, of law, of language, and of books exist-

ing between Great Britain and the United States, and said that this last community—that of books—was one “as to which some English authors are not so sensitive as they should be to the doctrine of universal benevolence.” There are many American authors in like manner lacking in universal benevolence; and when they see three, and five, and seven rival reprints of one of their books in England, from most of which they reap no reward, they are ready to develop an Anglophobia perilously near to misanthropy. Here is an anecdote in point. Messrs. Warne & Co. have reprinted in England the series of “Night-Cap Stories,” written by “Aunt Fanny” (Mrs. Barrow), “without the permission or payment of the author,” so a friend of hers writes to me: “When in London, Mrs. Barrow called on the publishers and was received with great politeness. She expressed her desire for a set of the English edition to take back with her to America, and was answered that they were quite ready to let her have the copies she required—at the published price. ‘But that is not what I mean,’ the American authoress responded; ‘you have sold many thousands of my books and I have never received a penny. I would like at least to have a set of the books to take home with me to New York.’ And again she was told that they would be happy to give her the volumes—on receipt of the price. Mrs. Barrow departed indignantly, without even a complimentary copy of her own books.”

Mr. Noah Brooks’s ‘Boy Emigrants’ was re-

printed in England, by the London Religious Publication Society, which paid the author a trifling sum for writing an introduction, but never proffered a penny for the book itself, although its managers boasted that they had sold more copies in England than were issued in America. Throughout the book dollars and cents were changed to pounds, shillings, and pence—yet none of the latter ever reached the American author. Other similar changes of a minor character were made here and there. They then had the impudence to propose to Mr. Brooks to write an introduction to his base-ball story, 'The Fairport Nine,' and they would take that also and change the game to cricket! Mr. Brooks, in sending me these facts, added that he had in his possession a pirated British edition of one of Mr. Bret Harte's books, to which is prefixed—as original—a biographical sketch of Mr. Harte contributed by Mr. Brooks to *Scribner's Monthly*.

Of Mr. O. B. Bunce's ingenious little manual of manners, 'Don't,' three editions were issued in England. They had a large sale—I can remember that one summer I saw one or another of them at almost every railway book-stall I noticed—but all that the American author received from the three English publishers was a single five-pound note. I believe, also, that at least one of the editions was adapted to suit the English taste and the exigencies of that perversion of our common language which is now spoken in Great Britain and her colonial dependencies.

Mr. John Habberton's amusing study of juvenile depravity, 'Helen's Babies,' appeared in nine reprints in England and Scotland, and for only three of these did the American author receive anything, although application was made to the publishers of all. One day, three years after the first issue of the book, several copies of a penny edition reached Mr. Habberton by mail — with postage overdue. Other of the same author's books, which appeared almost immediately after 'Helen's Babies,' were reprinted by many of the same English publishers, with little or no reward to Mr. Habberton; and he has suffered, besides, from the predatory invasions of two publishing-houses in Canada, and two more in Australia. Warned by his early experience, Mr. Habberton now sells advance-sheets to Messrs. Routledge & Co., but even this does not always deter the pirate. Part of the sequel to 'Helen's Babies,' called 'Other People's Children,' was issued serially in New York before the publication of the whole book in London; and these earlier chapters were reprinted by Messrs. Ward, Lock & Tyler, under the proper title, the remaining chapters being condensed into three or four pages at the end. The authorized edition issued by Messrs. Routledge & Co., published at two shillings and sixpence, was thus forced into a ruinous competition with the mutilated and incomplete piracy. It is, perhaps, not to be wondered at that Mr. Habberton concluded the letter in which he kindly furnished me these facts, with the following reflection: "A missionary among the London

poor tells me that the most to be expected from the lower class is that they will wash their faces and stop stealing; experience leads me to believe that the average British publisher has got only half-way up to the lower class."

The experience of the late Dr. Holland with one of his books was singularly like that of Mr. Habberton with 'Other People's Children.' The English courts have held that under certain circumstances prior publication in Great Britain will give an author copyright in England, whatever his nationality may be. Thus, by publishing the whole of 'Other People's Children,' as a book, in England before the end of the story was published serially in a periodical in America, Mr. Habberton endeavored to protect his work—not altogether successfully, as we have seen. In like manner, Dr. Holland had caused the number of *Scribner's Monthly* for September, 1873, to be issued in London before it was published in New York, and this number contained the final installment of his story, 'Arthur Bonnicastle.' The earlier chapters were not brought under the protection of the English law, and Messrs. Ward, Lock & Tyler took advantage of this to include Dr. Holland's book in their series of "Favorite Authors, British and Foreign," condensing the contents of the final installment into less than two pages of barren paraphrase, and defending this outrage on literature in a preface of eleven pages. The title-page of their edition sets forth that it is "Arthur Bonnicastle. By J. G. Holland,

author of 'Timothy Titcomb's Letters,' etc. (The concluding chapter by another hand.) With a Preface to this Particular Edition." This preface was signed by one S. O. Beeton; it is of an impudence as amazing as it is amusing. Two points in this Mr. Beeton's special pleading may be noted: on page xiv he appends a note of tearful regret for John Camden Hotten, who was a very Blackbeard among British pirates, as ingenious as he was unscrupulous; and on page xi he intimates a desire to overrule the judgments delivered in the Vice-Chancellor's Court and in the House of Lords — to which judgments I shall return shortly.

An earlier novel of Dr. Holland's, 'Miss Gilbert's Career,' had been maltreated in somewhat similar fashion. Its title was altered, an attempt was made to Anglicize the story by substituting London for New York and by changing a Fourth of July celebration into a commemoration of the Queen's Birthday. The British pirate's hireling who did this work was careless, and in one place New York was allowed to stand as it had been written by Dr. Holland — no doubt to the great surprise of the unwary reader, who might well wonder why the hero, having gone to London, should suddenly appear in New York.

Mr. Charles Dudley Warner tells me that he had arranged with an English house to issue 'Black-Log Studies,' but "about a week before the publication Ward, Lock & Tyler published a cheap (shilling) edition, called 'Black-Log Studies,' and

made up from the papers that had appeared in *Scribner's*." About half of Mr. Warner's work had not been published serially, and this half was omitted from the piratical edition. The matter reprinted from *Scribner's* was, however, "padded out with other stuff of mine, found in the magazines, which had nothing to do with the book."

Professor William Mathews writes me that he found, in the "Friendly Counsel Series" of Ward, Lock & Tyler, an edition of his 'Getting On in the World,' containing less than half of the work, without a hint to the public of the mutilation to which it had been subjected. After referring to other piracies from which he has suffered, he adds that "Hamilton, Adams & Co. republished, in 1879, my book on 'Oratory and Orators'; and another London house published a garbled edition of the same work, with an introduction by some Doctor-of-Laws whose name I cannot recollect. Neither of these houses has recognized in any way my property in the work. Of the two offenses, theft is, I think, less vexatious than mutilation of the children of one's brain." I believe that the American pirate, as a rule, kills his man by a shot through the heart; but the British pirate often uses an explosive bullet and lets his victim linger in agony.

Mrs. Champney's fanciful tale, 'The Bubbling Teapot,' describes the adventures of a child in the different countries of the world, the moral being that, after all, the American child has the best of it. A British edition of this book has been

issued, with "England" substituted for "America" throughout its pages — thus anglicizing the story in accordance with a spirit which I should call parochial, if I had not at hand a politer epithet, insular.

Two of the most widely read of American novelists, Miss Anna K. Green and Mr. E. P. Roe, have been extensively pirated in England. In Canada, in a single shop, Mr. Roe saw six rival reprints of one of his novels; and it is from Canada also that he received "'Give Me Thine Heart!'" A novel by Rev. E. P. Roe, author of 'Barriers Burned Away,' 'Opening of a Chestnut Burr,' etc. Complete. Toronto: J. Ross Robertson." Mr. Roe wrote me that this "is indeed 'complete'—as complete a fraud as could be perpetrated. So far from authorizing J. Ross Robertson (whoever he may be) to publish this novel, I never remember to have heard of him till I saw his imprint; so far from writing the novel, 'Give Me Thine Heart,' I had never even seen it, nor had I known of its existence until it was sent to me." Mr. Roe desired me to state that Ward, Lock & Tyler are now dealing as fairly with him as the lack of law will permit—a statement which I am very glad to make, as it is the only word I have yet heard in favor of this firm. I see on their list ten books alleged to be by "Mark Twain," including 'Eye-Openers,' 'Screamers,' 'Practical Jokes,' and other works bearing titles with which we unfortunate Americans have not been allowed to become familiar.

Mr. George Haven Putnam, the publisher of all

of Miss Anna K. Green's books, has shown me lists of half a dozen pirated reprints of her more popular tales. As yet the author of 'The Leavenworth Case' has received no money from England for that successful story; nor any money at all from any English publisher, except within three years from a single house. Mr. Putnam has also shown me a portly tome called 'Humorous Gems of American Literature,' recently published in London by George Routledge & Sons. This is an unauthorized reprint of 'Humorous Masterpieces from American Literature,' edited by Mr. E. T. Mason. With a contagious humor, the British pirate has even reprinted Mr. Mason's preface, in which he thanks American authors and publishers for having kindly allowed him to use copyrighted matter. Thus it is made to appear that Routledge & Sons, in London, have asked and obtained a consent in reality obtained only by Messrs. G. P. Putnam's Sons, in New York. It is a fine moral sense which prompted the British publishers to steal even the courteous acknowledgments of the American editor. When Mr. R. L. Stevenson went a-traveling with a donkey, he heard much about one Chayla, the Archpriest of the Cevennes in the troublous times; and he recorded that this Chayla "was a conscientious person, who seems to have been intended by nature for a pirate." I think it must be a conscientious person connected with the family of this Chayla who republished not only Mr. Mason's useful collection but even his honest preface.

Colonel T. W. Higginson writes me that "a book of mine, called 'Common Sense about Women,' was published in Boston in 1881, and I heard incidentally some months afterwards that a copy of an English reprint of it had been received at the Boston Public Library. On looking at this, I found that it had been issued by a London publisher named Sonnenschein, and I noticed that it seemed a much smaller book than the original work. On comparison, it proved that of the original one hundred and four brief chapters, more than one-third had been omitted, so that only sixty-five remained. In regard to eight chapters, the reason of omission was apparently that they referred especially to the principles or traditions of government in this country, and were therefore less appropriate for English readers; but the thirty-one other omitted chapters seemed to be dropped out at random, simply to make a smaller book. The injury done to the work was not so great as if the chapters had been closely continuous, which they were not; but they were nevertheless arranged and grouped so as to make, in some sense, a continuous whole, and I actually saw myself criticised in English newspapers for having omitted certain important considerations which had yet been carefully included by me in the authorized edition. A full and rather complimentary review of the book appeared in the *Westminster Review* at the time, but it was founded on this garbled copy, not on the full text.

"My natural impulse was to endeavor, through

literary friends in London, to secure a reprint of the original work; but they were assured by publishers that no one would be willing to undertake that after an abridged edition had, as they expressed it, 'killed the market.' I was thus left without redress; and from the fact that I have seen a third edition of my book, printed by Mr. Sonnenschein in 1884, I cannot even have the satisfaction of thinking that he lost money by his venture. I do not know whether any other edition of it has appeared in England, but as it bore no external marks of being a reprint, it may naturally have passed for the work of an English author, and have been supposed to be copyrighted.

"On comparing notes with others, I have heard so many parallel instances that my individual wrong has seemed hardly worth urging. The fault of the present anomalous state of things rests more, in a general way, with our own country than with England; but when it comes to the direct offenses of publishers, it is my conviction that the Englishmen are twice as culpable. The American publishers, if unauthorized, usually steal the purse alone; but the English publisher filches the good name, by his garbled editions."

From some of these examples — *e pluribus parva* — it seems that a certain sort of English publisher is as fond of adapting American novels as the English manager of a certain sort is fond of adapting French plays. In the belief that the British public prefers to have the scene of his stories and of his plays laid in Great Britain, he is led to localize,

as best he may, the novel of the New Yorker and the play of the Parisian. Out of deference to the average Englishman's horror against anything un-English, these publishers fall into the alleged practice of the gypsies—as denounced by *Mr. Puff* in the 'Critic'—and disfigure their stolen bantlings to make them pass for their own. I believe this is a note of insularity not to be heard in our broader country. Here there is piracy enough and to spare, but it is bold and open; it does not mangle its victims. The American pirates may take all the books of a British author, but they are not apt to alter these in any way, nor to deprive the author of anything but his just pay. They may steal his purse, but they do not rob him of his good name. Since I began collecting the facts on which this brief paper is founded I have made diligent inquiry, and as yet I have not heard of a single instance where the American pirate mutilated the book on which he had laid violent hands. Such cases may have occurred, but I have not been able to get an account of any. And even though I should find that a number of these outrages had been perpetrated in this country, I should still feel sure that Americans are less frequently guilty than the British, because I know that there is a greater chance of detection and exposure here in the United States than there is in Great Britain. This is for the same reason that American plagiarism from English writers is more uncommon than English plagiarism from American writers; because English books are more read and more

likely to be read in the United States than are American books in Great Britain.

The habit of piracy is not as wide spread in Great Britain as it is in the United States; and single instances are not as frequent there as they are here. But no year passes without its addition to the list. In 1887 there were to be seen in England three or four rival piracies of Mr. A. C. Gunter's 'Mr. Barnes of New York'; and in 1888 three or four competing and equally unauthorized adaptations of this story were to be seen at various London theaters. In 1888 also Messrs. Longman, Green & Co. arranged to publish an English edition of Mrs. Deland's 'John Ward, Preacher.' After a market had been made for the book by their energy, a cheap and wholly unwarranted reprint was issued by Warne & Co., and this was promptly followed by another issued by Ward, Lock & Tyler. Following the example of certain American reprinters who seek to give a color of justice to their unsanctified labors, Warne & Co. sent Mrs. Deland a check—which she promptly returned to them (through Messrs. Longman & Co.), refusing absolutely to have part or lot with them.

Reference has already been made to the doubtful condition of English law, which now grants protection to foreign authors under certain circumstances. In France the law makes absolutely no distinction between a foreigner and a native; it grants its protection to all alike: and it is a law like the French which we hope to see sooner or

later in Great Britain and the United States. The British are a commercial people, like ourselves, and it is idle to expect from them the ethical delicacy or the fine feeling for legal logic which we find in the French. I have no desire to underestimate the importance of the privilege accorded to the American author by this British law — a law far in advance of anything yet enacted in America for the protection of the English author — more's the pity! It is a step in the right direction, and I wish we Americans would take as long a stride. We protect already the stage-right of the English dramatist, and I can see no reason why we should not also protect the copyright of the English novelist.

What we desire from Great Britain is the enactment of a law which will give full copyright to every American book exactly as if its author were a British subject. That we have not anything like this appears plainly enough on a strict examination of the English decisions by which the law was declared.

In the case of *Jefferies vs. Boosey* (4 H. of L. C., 815), heard in 1854, it was held that the object of the act (8 Anne, c. 19) was to encourage literature among British subjects, which description includes such foreigners as by residence in the United Kingdom owe the crown a temporary allegiance; and any such foreigner first publishing his work in the United Kingdom is entitled to the protection of the act, if he is anywhere in the British dominions at the time of publication, even though

he came there solely with a view to this protection. Under this decision an American, having arranged for the publication of his book in London before it appeared in New York, and being in Canada when the book was issued in London, could protect the book as though he were a British subject.

Fourteen years later this doctrine may have received an extension. In 1868 the case of *Routledge vs. Low* (on appeal from *Low vs. Routledge*) was heard (3 H. L., L. R., 100), and the ruling in *Jefferies vs. Boosey* was affirmed, if not extended. In 1864 Miss Cummins, the author of the once popular novel, 'The Lamplighter,' made arrangements with Low to publish in London her new novel, 'Haunted Hearts'; and, to avail herself of the privilege accorded by the ruling in *Jefferies vs. Boosey*, she went to Canada and remained there until after the book was issued in London. Routledge pirated 'Haunted Hearts,' and Low sued out an injunction; then, in time, the case went to the House of Lords. The Lord Chancellor rendered the decision of the court continuing the injunction, and thus protecting Miss Cummins. The Lord Chancellor went further; he thought that the act of 5 and 6 Victoria broadened the act of 8 Anne, and he said: "In my opinion the protection is given to every author who publishes in the United Kingdom, wheresoever that author may be resident or of whatever state he may be subject." As Miss Cummins had been resident in the British dominions at the time of

the publication of her book in London, the case did not turn on this point, and these remarks of Lord Cairns are *obiter dicta*. They were not altogether acceptable to all of the Lord Chancellor's associates. Lord Cranworth dissented somewhat, but thought "it a reasonable inference from the provisions of the act that its benefits are conferred on all persons resident in any part of her Majesty's dominions, whether aliens or natural-born subjects, who, while so resident, first publish their works in the United Kingdom." Lord Chelmsford, with sincere respect for the Lord Chancellor's opinion, doubted whether it was well founded, although in the present case the residence of Miss Cummins in Canada was sufficient to confer on her "the same title to copyright upon the first publication of her work in England as a similar residence in the United Kingdom would have done." Lord Westbury agreed with Lord Cairns. Lord Colonsay had no doubt that "to obtain the protection of copyright the first publication must be within the United Kingdom," but he refused to express any opinion as to the necessity of residence, as a ruling on this point was not essential to a decision on the case before them.

From these two cases it appears that an American author can secure copyright in England by arranging with an English publisher to issue his book in the United Kingdom a day before it appears in the United States, and by being in Canada when his book is published in England. This much

is certain. And it appears possible, and perhaps even probable, that the same protection may be claimed by prior publication in England, without a trip to Canada. But this is uncertain and insecure; there is as yet no decision on this question, and no case turning on this point has yet been taken to the highest court. Until such a case has been argued before the House of Lords there is no knowing how it will be decided when the question is finally raised. And when we make any assumption as to the possible or probable decision of any such case, we leave the solid ground of ascertained law for the quaking quagmire of hypothesis. If an American author wishes to make sure of an English copyright, there is only one course for him to pursue: he must publish his book in the United Kingdom before he publishes it in America, and he must be in the British dominions when it is so published in the United Kingdom.

But, although this British law is a very good thing as far as it goes, it does not go far enough. It protects the books of an author of assured popularity,—and that this is a great gain, an enormous gain, I have no desire to deny,—but it does not protect the accidental success of an unknown author; and the history of literature is full of accidental successes. Often this first success is also the last, and an author who had lost the copyright of his first book might easily find that he had little profit from his later works.

To protect all the books of every American

author in Great Britain as in the United States — this is the ideal law which we seek; but the British law, as it is, falls far short of this. There were nearly five thousand books published in the United States in 1886, and perhaps half of these were of American authorship. To protect them all, they would all have had to be published in England before they were published in America, and the author of each would have had to be in Canada, or at Bermuda, or the Bahamas, or somewhere else under the British flag, at the moment when his book was issued in London. The method by which an American may secure copyright in England is not a simple registration, for which a single fee is paid and a single certificate given; it is an elaborate mercantile operation, to be established by evidence, written and parole. Prior publication means that a book shall be advertised, offered for sale, and bought over the counter, in England, before it is issued in America. To demand from every American author prior publication of his book in England is to lay a heavy burden on him — a burden that it is often absolutely impossible for him to bear.

To require that the whole of his book shall be published first in England is greatly to increase this burden nowadays, when more than half of our literature appears first in a serial of some sort, a monthly magazine or a weekly journal. In many cases, the imposing of the condition of complete and prior publication in England must operate as a preventive of copyright. The lead-

ing American magazines are now published in London a day or two before they appear in New York, and the authors who contribute to these may avail themselves of the protection of the English law, by residing in Canada on the day when each number is issued. But it is obviously impossible that weekly journals like *Puck* and *The Christian Union* and *Harper's Bazar* should have prior publication in England. Whatever, therefore, is printed in these journals, or in the hundreds of other American weekly papers, can be pirated by any British publisher who may think it worth his while, despite the utmost endeavor of the American author.

If Miss Anna Katharine Green contributes a serial to *Frank Leslie's Illustrated Newspaper*, or if Mr. Howells writes a story for *Harper's Weekly*, the prior publication of the completed book in England will not help them. American authors must choose between the possible loss of their English copyrights and the refusal to contribute to any serial every number of which is not issued in England before it appears in America. Colonel Higginson's 'Common Sense about Women' was a series of essays written especially for the *Woman's Journal*; but even if Colonel Higginson had published his book in England before it was published in America, and had gone to Canada for the day, he could not have prevented Sonnenschein from stealing it, and garbling it as he has seen fit to do.

To show still further the inadequacy of the British law two more instances may be cited,

both of them from the literary history of residents of Hartford. If this law had been declared when Mrs. Harriet Beecher Stowe wrote the greatest book yet written by an American, it would not have protected 'Uncle Tom's Cabin,' and that work would still have been as free to the British pirate as it is now. Mrs. Stowe composed the story as a serial, and it appeared in installments in a weekly paper of Washington. The authoress was modestly unsuspecting of the value of her work; she would not have thought of going to Canada, even if she had then had the means; she could not have arranged prior publication in England, even if she had had the wish, for she was then unknown to any English publisher; and even if she had done so, it would have availed her nothing, because the story had first appeared from week to week in an American weekly, as fast as it was written.

The other case is almost as significant. One of the most abundantly popular of the books written by American authors in the past quarter of a century is the 'Innocents Abroad.' It was made up of letters printed from time to time in the newspapers. Now, I do not think that the author of this book had any idea that it would be as successful as it was; I doubt if he would then have found it easy to secure its prior publication in England, while he went on a visit to Canada; and I am sure that if he had tried so to protect it, the effort could not have profited him, for the British pirate would have been free to reproduce from the newspapers the original letters just as they had been printed.

To a popular American author, sure of his audience in both countries, the British law, as laid down in *Jefferies vs. Boosey* and again in *Routledge vs. Low*, often affords a fair shelter against the pirate. To all others, it is as a tottering wall and a broken hedge. For ten that it guards, there are a thousand that it leaves defenseless and bare. The Black Flag still flies alongside the Union Jack—as it does also, alas! by the side of the Stars and Stripes.

In the preface to the 'Sketch Book,' Washington Irving tells us how Sir Walter Scott kindly helped him to make an arrangement with Mr. John Murray for the final publication of that book in England; and the story of the English publisher's honorable dealing with the American author is now well known. Not a few other houses in Great Britain are wont to act with the same honesty. It would be impossible to find a stolen book on the lists of Messrs. Longman & Co., or of Messrs. Macmillan & Co., although the books of American authors are common enough on their catalogues. Mr. Henry James and Mr. Marion Crawford have intrusted the publication of most of their latest books to Messrs. Macmillan & Co., not only in Great Britain, but in the United States also, which is evidence that they thought themselves well treated in England. Messrs. Chatto & Windus succeeded to the business of one of the most ferocious of British pirates, John Camden Hotten, against whose barbarity "Mark Twain" protested in vain; at once the new firm turned over a new

leaf, and they are now the authorized English publishers not only of "Mark Twain," but of at least half a dozen other American authors, with whom their relations are as pleasant as they are profitable. And Mr. Murray, Messrs. Longman & Co., Messrs. Macmillan & Co., Messrs. Chatto & Windus are but a few out of many—out of a majority, it may be, of British publishers. Among English publishers, as among American publishers, there are good men and bad; there are men of marked integrity, there are men of obvious dishonesty, and there are men of every grade between the two.

I hope that no reader of these pages will think that they are written with any desire to stir up international ill-feeling. No one who considers the whole field can fail to see that we in America are now far more to blame for the present miserable state of affairs than the English. I trust, therefore, that no one will think that I would try to retard the cause we all have at heart, by calling names and by holding the British publisher up to scorn in America. Certainly, such is not my aim. It is a pretty poor quarrel in which "You're another!" is a useful retort; and nothing is further from my intent than a vulgar *tu quoque*. But it has seemed to me right and proper and needful that some one should draw attention to the frequent misdeeds of certain British publishers of the baser sort, and that some one should show that there is far more piracy in England than the English acknowledge or know.

This paper has a double purpose. It is designed, first of all, to point out to our kin across the sea that there are wrongs on both sides of the Atlantic, and therefore that a more moderate tone is becoming than our British cousins are wont to adopt when their kindness moves them to dwell on our deficiencies. Those who seek equity must do equity. "He that is without sin among you, let him first cast a stone." I have tried to show that if the British acted up to this principle they could never raise a cairn over the grave of any American pirate. I desire to suggest to the mob of gentlemen who write with ease in the English reviews, that justice, like charity, had best begin at home. I know that the beam in the British eye does not prevent its seeing the mote in ours, but I believe that it could take a clearer view, were it to remove its own *muscæ volitantes*.

Secondly, and indeed chiefly, this paper is an appeal to the people of the United States to do what is right by the authors of Great Britain, that England may do what is right by American authors. At bottom, this paper is a plea for broader and firmer justice to the writers of our language from the people of both countries. I began by saying that although we could all see the great wrong done to English authors by American pirates, only a few of us had occasion to consider the great wrong done to American authors by British pirates; and I end by declaring that the condition of the law is at fault in both countries, and that the remedy is to change the law

so that the writers of Great Britain and of the United States should control their own books on both sides of the Atlantic alike. While men are legally permitted to make money by seizing the literary property of others, some will yield to temptation, and take what is not theirs to take. The remedy is to change the law. The remedy is to let the American author control his own book in Great Britain as in the United States, and to let the English author do likewise. As long as the present conditions obtain, and as long as human nature is weak, as we know it to be now, just so long we may expect to see a preface to the 'Autocrat of the Breakfast Table,' by Mr. George Augustus Sala, and to protest in vain against the publication of 'Yankee Ticklers,' by Dr. Oliver Wendell Holmes. It is for us here in America to make the next move. England has taken the first step—although it is not as wide a stride as we could wish it. Our turn it is now to advance along the path of honesty and justice. England will meet us half-way. England stands ready to grant us all we ask, if we are prepared to do as we are done by. As yet, I am sorry to say, the people of these United States are in a condition of ethical inertia, at least in so far as this subject is concerned, and it is not easy to arouse them to motion; but when a popular movement does come at last, as surely it will come soon, its momentum will be irresistible.

"The chief glory of every people arises from its authors," said Dr. Johnson. It is often said



that the people of the United States are both proud of the authors of America and fond of them. If this be the case, there is now an opportunity to give a practical proof of this pride and of this affection by allowing these authors to control their own works on both sides of the Atlantic, by relieving them of the fear of piracy abroad, and by freeing them, at home, from the competition with stolen goods.

UoF

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valid in both."

Yours very truly
Henry W. Longfellow.

. . . Whatever is just is for the benefit of all; and I wish we could have a law providing, between England and America, that "a copyright taken out in either country shall be equally valid in both."—*From a letter (October 8, 1878) to Mr. William Dulles, Jr., 4037 Chestnut Street, Philadelphia, Pa., printed in "The Century" for March, 1888.*

